

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GREGORY L. DOWDY,

No. C 09-3144 WHA (PR)

Petitioner,

**DENIAL OF CERTIFICATE OF
APPEALABILITY**

vs.

BEN CURRY, Warden,

Respondents.

(Docket No. 13)

This is a habeas case filed by a California prisoner proceeding pro se. Respondent's motion to dismiss the petition was granted on September 2, 2010. Petitioner has filed a notice of appeal. He also requests a certificate of appealability ("COA") pursuant to 28 U.S.C. 2253(c) and Rule 22(b) of the Federal Rules of Appellate Procedure. Reasonable jurists would not find it debatable that the court was correct in its procedural ruling and that petitioner stated a valid claim for the violation of his constitutional rights. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The request for a certificate of appealability (docket number 13) is **DENIED**.

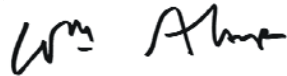
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1 The clerk shall transmit the file, including a copy of this order, to the Court of Appeals.
2 *See* Fed. R.App.P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).
3 Petitioner may then ask the Court of Appeals to issue the certificate, *see* R.App.P. 22(b)(1), or if
4 he does not, the notice of appeal will be construed as including such a request, *see* R.App.P.
5 22(b)(2).

6 **IT IS SO ORDERED.**

7 Dated: October 27, 2010.

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9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE
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